



21 AUG 2006

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA PA 19103

In re Application of:	:	
TANAKA, Hiroyuki, et al.	:	DECISION
Application No.: 10/527,514	:	
PCT No.: PCT/JP03/11541	:	
Int. Filing Date: 10 September 2003	:	
Priority Date: 10 September 2002	:	
Attorney Docket No.: TIP-05-1037	:	
For: BIAXIALY ORIENTED POLYESTER FILM	:	

This decision is issued in response to applicants' "Letter" filed 08 December 2005, treated herein as a petition under 37 CFR 1.181 to confirm the 04 April 2005 filing of the declaration herein, and the "Request For Corrected Filing Receipt And Notice Of Acceptance" filed 21 February 2006. No petition fee is required.

BACKGROUND

On 10 September 2003, applicants filed international application PCT/JP03/11541. The international application claimed a priority date of 10 September 2002, and it designated the United States. On 25 March 2004, the International Bureau ("IB") communicated a copy of the international application to the United States Patent And Trademark Office ("USPTO") by. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 10 March 2005.

On 10 March 2005, applicant filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee.

On 02 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 08 December 2005, applicants filed a "Letter," with accompanying materials, in response to the Notification Of Missing Requirements. The submission included a copy of an executed declaration in compliance with 37 CFR 1.497 and a statement that the declaration had been previously filed on 04 April 2005. The submission also included a copy of a return postcard itemizing the declaration and bearing a USPTO receipt stamp dated 04 April 2005.

On 02 February 2006, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 08 December 2005 as the "Date Of Receipt Of 35 U.S.C.

371(c)(1), (c)(2), and (c)(4) Requirements” and the “Date Of Completion Of All 35 U.S.C. 371(c) Requirements.” The Notification Of Acceptance also identified the international filing date as 09 October 2003.

Also on 02 February 2006, a filing receipt was issued which identified 08 December 2005 as the 35 U.S.C. 371(c) date and 09 October 2003 as the international filing date.

On 21 February 2006, applicants filed the “Request For Corrected Filing Receipt And Notice Of Acceptance” considered herein. In this submission, applicants request correction of the 35 U.S.C. 371(c) date to 04 April 2005 and correction of the international filing date to 10 September 2003. The submission included, among other materials, a Supplemental Application Data Sheet (ADS) in which the international filing date for PCT/JP03/2003 had been corrected to 10 September 2003 (the original ADS filed 10 March 2005 had incorrectly identified the international filing date as 09 October 2003).

DISCUSSION

Based on applicants statements in the correspondence filed 08 December 2005 and the accompanying return postcard itemizing the declaration and bearing a USPTO receipt stamp dated 04 April 2005, it is concluded that the declaration accompanying the 08 December 2005 was originally filed in the USPTO on 04 April 2005. As this declaration completed the requirements of 35 U.S.C. 371(c) for the present application, the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is 04 April 2005.

In addition, a review of the application file confirms that the international filing date for PCT/JP03/11541 is 10 September 2003, as indicated in the “Request For Corrected Filing Receipt And Notice Of Acceptance” and in the Supplemental ADS submitted therewith.

Based on the above, the Notification Of Acceptance and filing receipt mailed 02 February 2006, which identified the 35 U.S.C. 371(c) date as 08 December 2005 and the international filing date as 09 October 2003, are appropriately vacated.

CONCLUSION

Applicants’ petition under 37 CFR 1.181 is **GRANTED**.

The correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 04 April 2005, the date the executed declaration was originally filed in the USPTO.

The correct international filing date for PCT/JP03/11541 is 10 September 2003.

The Notification Of Acceptance and filing receipt mailed 02 February 2006, which identified the 35 U.S.C. 371(c) date as 08 December 2005 and the international filing date as 09 October 2003, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the issuance of a corrected Notification Of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 04 April 2005 and the international filing date as 10 September 2003.

A handwritten signature in black ink, appearing to read 'RMR', is positioned above the typed name of the signatory.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459